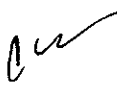


INTER-OFFICE MEMORANDUM LEGAL DEPARTMENT

TO: MAYOR STEPHEN J. LUECKE

FROM: CHARLES S. LEONE - CITY ATTORNEY 

SUBJECT: LEGAL DEPARTMENT ANNUAL REPORT - 2006

DATE: JANUARY 11, 2007

I. OVERVIEW

In 2006 the City of South Bend Legal Department continued its role of providing support, advice and representation to various units of the City of South Bend and representing the City in litigation in state and federal courts, and before administrative agencies.

During 2006, the nine attorneys of the City Attorney's staff provided assistance to all of the departments and divisions within the City of South Bend, together with various City and City-related boards, commissions, corporations, and authorities, including the Alcoholic Beverage Board, the Human Rights Commission, the Board of Zoning Appeals, the Redevelopment Commission, Redevelopment Authority, Board of Public Safety, Board of Public Works, Park Board, the Century Center Board, the Historic Preservation Commission, the South Bend Building Corporation, Sister Cities of South Bend, Inc. and the South Bend Common Council.

The Legal Department provides advice to each of these departments and entities with respect to the conduct of their business under local, state, and federal law so that each entity will operate in compliance with all legal requirements. The department also represents the City in disputes in state and federal court and before administrative agencies in order to protect the City's interests when the City has been named as a defendant in lawsuits or administrative actions or to advance the City's interests when the City has a claim against another person or entity and litigation is the only way to achieve the goal of advancing and protecting the City's interests.

The department also engages in negotiations with outside parties to establish the City's role in various projects and undertakings and prepares a variety of documents to memorialize the relationships which have been established and to provide the framework for ongoing relationships.

In 2006 the Department continued operation of a third year of the South Bend Local Government Academy to better communicate the role and operations of the City to local community leaders and the public at large.

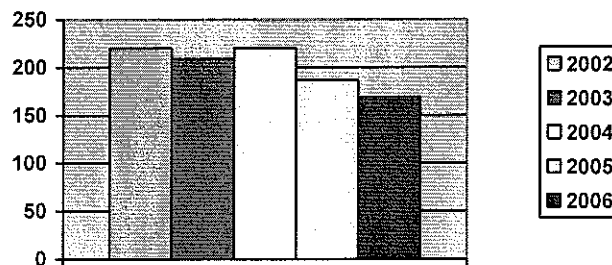
Legal Department staff remained unchanged during 2006.

II. SELF-INSURANCE

The department managed the City's self-insurance liability program, paying out \$401,769.01 in claims against the City in 2006. If the risks covered by the self insurance program had been fully insured, the estimated premiums would have been in the \$2.5 Million to \$5 Million range. The cost savings are thus substantial although the amount of payout varies from year to year. The history of the City's liability self-insurance cost is as follows:

Year	Number of New Claims Filed	Claims Paid	Year-End Claims & Suits Pending
1997	268	\$ 327,668.29	
1998	249	\$ 411,221.79	
1999	343	\$ 446,104.48	
2000	245	\$1,102,372.60	
2001	352	\$ 648,242.73	
2002	220	\$ 341,655.19	63
2003	209	\$ 332,005.11	56
2004	220	\$ 330,949.26	60
2005	187	\$ 813,481.69	36
2006	169	\$ 401,769.01	45

NEW LIABILITY CLAIMS HISTORY



Claims paid in 2006 were below the five-year average. New claims continue to decline in number demonstrating effective City-wide departmental leadership in reducing risks of operations. Claims backlog also continues at a low level.

The claims review process, in conjunction with the defense, negotiation, and settlement process, assists City departments in identifying areas of risk and engenders discussion and action on the best ways to manage that risk.

In 2006, the limit for claims against governmental entities and employees increased from \$300,000.00 to \$500,000.00. The limit will increase again in 2008 to \$700,000.00. No currently pending cases subject the City to risk at these higher limits.

III. PROSECUTION OF ORDINANCE VIOLATIONS

The Legal Department also prosecutes claims in the local courts for violations of City ordinances, occasionally through the injunction process, but most often through civil actions to collect fines. During 2006, \$152,268.00 was collected for ordinance violations and other miscellaneous accounts for various departments.

The history of total collections is as follows:

1998	\$ 70,797.92
1999	\$ 75,446.00
2000	\$ 78,713.17
2001	\$114,053.78
2002	\$122,226.37
2003	\$160,036.66
2004	\$161,466.00
2005	\$193,846.25
2006	\$152,268.00

A breakdown of the history for the collection of ordinance violations, which include code enforcement, noise violations, parks infractions and any other miscellaneous violation of City ordinances, and parking ticket violations is as follows:

	<u>Ordinance Violations</u>	<u>Parking Tickets</u>
2000	\$30,544.17	\$17,866.00
2001	\$70,737.27	\$15,703.00
2002	\$82,005.55	\$17,168.00
2003	\$96,008.56	\$13,736.65
2004	\$92,065.00	\$25,122.00
2005	\$91,060.23	\$21,839.00
2006	\$85,869.98	\$14,713.00

IV. LEGISLATIVE SERVICES

Legislative work of the department includes preparation of proposed ordinances to be submitted to the South Bend Common Council, review of proposed state legislation pending before the Indiana General Assembly, and monitoring of proposed federal legislation which could affect municipal operations.

Among local legislation efforts was preparation and support of the Safe Streets Ordinance which prohibits solicitation of funds in traffic and the park ban procedure ordinance.

V. TRAINING ON LEGAL ISSUES

The Legal Department also provides information and training to City employees on changes in the law. Members of the City Attorney's staff have provided training to Uniformed Officers and Civilian Volunteer Officers of the South Bend Police Department, the South Bend Human Rights Commission, and the Department of Code Enforcement with respect to various issues.

The Department also provided assistance to the Airport Authority in training taxi drivers and company owners and provided instruction to other lawyers on First Amendment issues through the Indiana Continuing Legal Education Forum.

VI. LOCAL GOVERNMENT ACADEMY

The Legal Department continued its ten-week Local Government Academy in 2006 to introduce residents to City operations and encourage them to participate in local government. City employees served as the faculty and the "classroom" traveled to the Street, Police and Fire Departments, O'Brien Center, Century Center, the Morris Performing Arts Center and Palais Royale, the Near Westside Partnership

January 11, 2007

Center, and the Common Council Chambers, where class members presented an ordinance at a mock Council meeting. The class also took a bus tour of several redevelopment, public works and neighborhood projects.

Attendance at each Academy session has been approximately 25 students per session since beginning in the fall of 2004. The Academy showed people parts of the City they had never seen and how the City is working to serve them. The next session begins January 25, 2007.

VII. LITIGATION

At the end of 2006, the Legal Department was involved in the following litigation on behalf of the City of South Bend:

<u>Litigation Area</u>	<u>City as Plaintiff</u>	<u>City as Defendant</u>	<u>Pending Claims</u>
Code Enforcement	208	5	
Injunctions	25	1	
Animal Warrants	70		
Police Actions		10	
Vehicles Accidents		5	5
Personal Injury (not vehicle)		10	3
Indiana Civil Rights Commission		1	
Administrative Appeals		1	
Foreclosures	1	155	
Bankruptcy	1	1	
Condemnation	1		
Miscellaneous	1	12	5
Total	307	201	13

Minor miscellaneous matters not included in this table are infraction cases in Small Claims Court and Code Enforcement collections in Small Claims Court.

The Legal Department also participated in 4 mediation sessions in 2006 in an attempt to resolve disputes in litigation. Department attorneys also participated in the following administrative hearings in 2006:

<u>Agency</u>	<u>Number of Hearings</u>
Human Rights Commission	12
Code Enforcement	69
License Appeals	12
Board of Safety - Disciplines	6
Unemployment Hearings	7
Board of Zoning Appeals	12

In 2006, the Legal Department was active in pursuing the drug and disorderly house ordinance. A total of 278 Notices to Abate under the Drug House Ordinance and 76 Notices to Abate under the Disorderly House Ordinance were sent to owners/occupants in the City. Four (4) of these notices resulted in the filing of injunction lawsuits.

Significant litigation concluded during 2006 included bankruptcy proceedings to protect the integrity of the code enforcement process when a property owner files bankruptcy, the appeal by dismissed police officer Jess Elliott, settlement of the police sergeants' pay lawsuit, and judgment for the City after trial in the Roseland utilities case.

VIII. TRANSACTIONAL ASSISTANCE

During 2006, Department attorneys prepared approximately 315 agreements, resolutions and documents conveying real estate interests in transactions in which the City was involved, primarily for the Department of Community and Economic Development.

IX. NEGOTIATIONS

Negotiations during 2006 involving department attorneys included collective bargaining with Teamsters Local 364 and F.O.P. Lodge 36, settlement negotiations and mediation to resolve pending claims and litigation, and project term negotiations to assist economic development activity.

X. CIVIC AND PROFESSIONAL PARTICIPATION BY STAFF ATTORNEYS

During 2006, several of the attorneys in the Legal Department participated in activities which contributed to the City's presence and to their own professional development. These activities include the IACT Legislative Committee, St. Joseph County Bar Association Board of Governors; Character and Fitness Committee of the Indiana Supreme Court; Pro Bono Committee and Bench and Bar Committee of the St. Joseph County Bar Association; Robert A Grant Inn of Court; Indiana State Bar Association American Citizenship Committee; Indiana Municipal Lawyers Association; the St. Joseph County Bar Association Local Practice Seminar Planning Committee, and the Indiana Association of Cities and Towns, and Indiana Continuing Legal Education Forum.